IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

ST.Rev..No. 226 of 2007

TA.625/2003 of S.T.A.TRIBUNAL,ADDL.BENCH,PALAKKAD
DATED 25.5.2004
.....

REVISION PETITIONER/APPELLANT/ASSESSEE:

PRINCE ELECTRICALS,
REPRESENTED BY ITS MANAGING PARTNER, V.K.JOY.

BY ADV. SRI.ABRAHAM MATHEW (VETTOOR)

RESPONDENT/RESPONDENT/REVENUE:

STATE OF KERALA.

BY SR. GOVERNMENT PLEADER (SHRI MUHAMMED RAFIQ)

THIS SALES TAX REVISION HAVING COME UP FOR ADMISSION ON 22/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

H.L. DATTU, CJ. & K. M. JOSEPH, J.

C.M.APPL.NO. 692 OF 2007

&

S.T.REV. NO. 226 OF 2007

Dated this the 22nd November, 2007

ORDER

H.L. DATTU, CJ.

The assessee being aggrieved by the orders passed by the Sales Tax Appellate Tribunal in T.A. No.625/03 dated 25.5.2004, has filed the present Sales Tax Revision Case. In filing the Revision Case, there is a delay of nearly 986 days. To condone the delay in filing the Revision Case, the petitioner has filed an Application under Section 5 of the Limitation Act.

2. In the Affidavit filed along with the Application, at paragraph (3), the applicant has stated as follows:

> "3. The Sales Tax Appellate Tribunal passed the order under challenge on 25.5.2004. The order so passed was served on the Tax Practitioner, Sri.T.T. Dani, who appear on my behalf before the tribunal however, he did not furnish the details of the order to me apart from stating that the addition has been deleted. As my wife is a person who is constantly being troubled of acute high pressure, I could not approach the tax practitioner to collect the order immediately. In the meanwhile, I met with a motor vehicles accident and happened to be hospitalised for long and I was not in a position to travel for a long period. While so, I received an intimation from the revenue recovery notice issued by the Deputy Tahsildar, Revenue Recovery, Thrissur intimating payment of huge amount as arrears of tax, the original demand which was under order of stay by demanding the balance amount of tax to be paid. I contacted my counsel at

> Ernakulam regarding the stage of the original petition filed as No.8355 of 2003 and I was informed that the same has been dismissed for default. I made arrangements for filing a MJC against the order dismissing the original petition for default. In that process I have also collected the revised assessment order issued by the Sales Tax Officer and the Tribunal order from the Tax Practitioner in which I came to know that the order to add 20% gross profit has been sustained by the Tribunal as well. The MJC was allowed and it has been directed to issue revised demand notice as per the modified order passed by the Assessing Authority."

3. The reason stated by the petitioner is that, his wife was suffering from Blood Pressure and further he had met with an accident and, therefore, he could not get in touch with his Tax Practitioner and his lawyer and there is a delay of 1081 days in filing the Revision Case. In support of his contentions, petitioner has not produced any material before us. Merely because his wife was suffering from Blood Pressure, it cannot be said that the petitioner was prevented from approaching the Tax Practitioner or his lawyer.

4. Nextly, the petitioner has stated that he had met with a motor vehicle accident and, therefore, he was not in a position to get in touch with either the Tax Practitioner or the lawyer. Petitioner has not produced any material before us, to suggest, that he was immobilised from the date of accident which prevented him from getting in touch with his lawyer. In the absence of those materials, in our opinion, the explanation offered by the petitioner in approaching this Court belatedly, cannot be condoned. Therefore, the prayer made in the Application for condonation of delay, requires to be rejected and it is rejected. Consequently, the ST Rev. Case

also is dismissed.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE

K.M. JOSEPH,
JUDGE

kbk.